

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-110040
		C-110055
Plaintiff-Appellee,	:	TRIAL NO. B-0900821-B
vs.	:	
AGYEI LEWIS,	:	
Defendant-Appellant.	:	<i>JUDGMENT ENTRY.</i>

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op.3(A), App.R.11.1(E), and Loc.R.11.1.1.

Defendant-appellant Agyei Lewis pleaded guilty to aggravated burglary, aggravated robbery, felonious assault, kidnapping, and an accompanying firearm specification. The trial court imposed an agreed sentence of seven years in prison and ordered Lewis to pay restitution. We dismissed Lewis's first appeal because the trial court had failed to determine the amount of restitution as required under R.C. 2929.18(A)(1). As a result, the trial court held a hearing on Lewis's indigency. It then resentenced Lewis and ordered him to pay \$1480 in restitution. Lewis now appeals raising four assignments of error.

In his first assignment of error, Lewis argues that the trial court erred by failing to dismiss the charges against him on the basis that his speedy-trial rights had been violated. But by entering guilty pleas, Lewis has waived his right to challenge

his convictions on speedy trial grounds. See *State v. Kelley* (1991), 57 Ohio St.3d 127, 566 N.E.2d 658, paragraph one of the syllabus. We, therefore, overrule his first assignment of error.

In his second assignment of error, Lewis argues that his guilty pleas were not knowing, voluntary, and intelligent. Although the trial court orally misstated that Lewis's five year term of post-release control was discretionary rather than mandatory, the written plea agreement, which Lewis had not only signed, but had acknowledged reviewing with his attorney at the plea hearing, accurately stated that Lewis would serve a mandatory five-year term of post-release control. Therefore, the trial court substantially complied with Crim.R. 11(C)(2)(a). See *State v. Sarkozy*, 117 Ohio St.3d 86, 2008-Ohio-509, 881 N.E.2d 1224, ¶22-23; *State v. Alfarano*, 1st Dist. No. C-061030, 2008-Ohio-3476, ¶4-6. Lewis, furthermore, has not demonstrated that he would not have pleaded guilty, but for the trial court's erroneous advisement. See *Alfarano*, supra, at ¶8; see, also, *State v. Lang*, 8th Dist. No. 92099, 2010-Ohio-433, ¶13-14. As a result, we overrule his second assignment of error.

In his third assignment of error, Lewis argues that the trial court erred in imposing separate sentences for the aggravated robbery and kidnapping offenses because they were allied offenses of similar import.

But the record reflects that the kidnapping was not merely incidental to the aggravated robbery. Instead, it involved prolonged restraint. See *State v. Logan* (1979), 60 Ohio St.2d 126, 397 N.E.2d 1345, syllabus. Because Lewis committed the aggravated robbery with a separate animus from the kidnapping offense, the trial court properly sentenced Lewis for each offense. See *Logan*, supra; see, also, *State v.*

*Johnson*, 1st Dist. No. C-090620, 2011-Ohio-3143, ¶77-78. As a result, we overrule his third assignment of error.

In his fourth assignment of error, Lewis argues that he was denied the effective assistance of counsel when defense counsel failed to protect his statutory right to a speedy trial by requesting numerous continuances and failing to file a timely discovery response. But Lewis's guilty pleas waived any claims of ineffective assistance of counsel based upon the speedy-trial issues; and Lewis has not asserted that the actions or inactions of defense counsel rendered his pleas unknowing or involuntary. See *State v. Goodwin*, 8th Dist. No. 93249, 2010-Ohio-1210, ¶7-11; see, also, *State v. Barnett*, 73 Ohio App.3d 244, 248-249, 596 N.E.2d 1101. As a result, we overrule his fourth assignment of error and affirm the judgment of the trial court.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27.

**DINKELACKER, P.J., HILDEBRANDT and SUNDERMANN, JJ.**

To the Clerk:

Enter upon the Journal of the Court on October 12, 2011  
per order of the Court \_\_\_\_\_.  
Presiding Judge